

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO.176 OF 2014

IN THE MATTER OF THE CHILDREN ACT NUMBER 8 OF 2001

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY N K

K C K1ST APPLICANT

AND

E K N.....2ND APPLICANT

JUDGMENT

1. The applicants **K C K** and **E K N** are seeking to be authorized to adopt baby **N K** and should the said order be granted that the baby be called **J M C**. They also seek that **J O K** be appointed the legal Guardian of the child.
2. The applicants are Kenyan citizens aged 40 and 43 years respectively. The two were married in 1997 under Kisii customary law. The 1st applicant works with Nairobi SDA Church as a caretaker while the 2nd applicant operates a green grocer's shop at Wilson airport. The applicants reside in Wilson Airport at KAA servant quarters. The applicants have not been blessed with any biological children of their own. The applicants have not been charged or convicted of any criminal offence and are in good health.
3. The child was born on 16th January 2012 at Kiambu District hospital and abandoned by his mother **W W** on 20th January 2012. The case was reported and recorded at Kiambu Police Station as Ob no.22/24/1/2012. The child was placed with Nest Children home by Kiambu District Children officer on 1st March 2012. Since the said abandonment, no one has gone to claim him. The child was committed to Hope Nest Children's home on 27th April 2012 under care and protection Case Number 99 of 2012. On 13th June 2012, the child at 6 months was transferred to Hope House Children's Home. The final letter from Kiambu Police Station dated 4th April 2013 indicated that their investigation trying to trace the mother of the child have not borne any fruits. The child was declared free for adoption by child Welfare Society of Kenya on 23rd May 2014 and issued a certificate no. [particulars withheld] this was a year after the child had been placed with the applicants for care and maintenance.
4. This is a local adoption, the applicants have met the necessary pre-requisites to adopt the child as prescribed in the Children Act 2001. The department of Children services filed their report on 30th July 2015. Though the department of Children services find that the applicants are fit to take parental responsibility of the child but points out that there was irregularities as the child was placed into the custody of the applicants before being declared free for adoption. When the matter came for hearing the officer explained that the home where the child was congested and the child was released before being declared free for adoption. I find that this is not in line with the laid down procedure but the same is not fatal to deny the child a home with the applicants who wish to adopt him. The report also state that the child has bonded well with the adoptive parents and recommend that the adoption is in the best interest of the child.

5. It is evident that the applicants have fulfilled all the legal requirements relating to the adoption of the child. This court is satisfied that the applicants are qualified and able to take care of the child financially and providing his basic needs and they have bonded well with the child. This court finds that it would be in the best interest of the child to be adopted by the applicants. I allow the application for adoption. The Applicants **K C K** and **E K N** are hereby allowed to adopt **N K** who shall henceforth be called **J M C. J O K** a brother to the 1st applicant be appointed the legal Guardian of the child should misfortune befall the applicants. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore a Kenyan by birth and is entitled all the rights that accrue to Kenyan citizens under the Kenya Constitution 2010 and the Kenya citizenship and Immigration Act. I hereby discharge the Guardian ad litem. Cost in the cause. It is so order.

Dated, Signed and delivered this **5th** Day of **November** 2015.

R. E OUGO

JUDGE

In the presence of:

.....**Applicants**

Ms. Charity

Court Clerk